

REMARKS

Claims 2-13 and 15-20 are pending.

Claims 2-13 and 15-20 are provided as previously presented, with no amendments.

Applicant wishes to bring to the Examiner's attention that claims 1-4, 15, 18 and 19 were previously allowed according to the prior Office Action dated June 5, 2006. In the same Office Action, claims 6, 8, 11, and 17 were objected to. Applicant requests that the Examiner refer to Applicant's response dated August 24, 2006 for a full response to the rejections and objections made in the June 5, 2006 Office Action. The Examiner is requested to provide a next Office Action that is responsive both to the August 24, 2006 Response as well as the present Response.

Claim Rejections – 35 USC § 101 and 35 USC § 112

Regarding the 35 USC 101 rejection, Applicant asserts that all of claims 2-13 and 15-20 produce a useful, concrete and tangible result, having real world value. The claims are not merely abstract ideas that are used for future investigation or research. For example claim 2 recites a method of tunneling a transaction based protocol through a generic Internet Protocol (IP) transport, including a host-to-host communication or telecommunication session. Claim 9 recites an application programming interface for transparently routing data between hosts in an IP transport. Claim 15 recites a program for tunneling a transaction based protocol through a generic IP transport during a host to host communication.

The functions of the invention as well as the features necessary to accomplish the functions and practical applications are clearly provided. In fact, Applicant has provided source code as part of the specification. Any rejection based on section 101 requires a prima facie case of why the claims are unpatentable. Such as prima facie case is refuted according to the following analysis.

USEFUL RESULT

The claims recite subject matter that provides a useful result. The result is specific, substantial, and credible. As discussed previously, for example, a method of tunneling through an IP transport during a host to host communication or telecommunication session clearly provides a useful result.

TANGIBLE RESULT

The tangible result requirement does not necessarily mean a claim must be related to a particular machine or apparatus or must operate to change a material to different state. Rather the claims must produce a real world result, as opposed to some invention which has no practical application. Applicant has disclosed and claimed specific practical applications, rather than some abstract ideas that have no application. Applicant has in fact provided source code of one such practical application.

CONCRETE RESULT

A concrete result is a result that is substantially repeatable. The claims recited by Applicant are repeatable and predictable. A result of performing any of Applicants methods or programs, for example, provides a predicable result. Anyone skilled in the art can perform the methods or programs recited by the Applicant without undue experimentation. The source code provided by Applicant may be used to obtain such a repeatable and predictable result.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 2-13 and 15-20 of the application as previously presented is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Customer No. 20575

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Bryan D. Kirkpatrick
Reg. No. 53,135

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613